

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. After amending the claims as set forth above, claims 1-3 and 5-11 are now pending in this application.

Applicant wishes to thank the Examiner for the comments provided in the Advisory Action dated May 24, 2006.

Rejection of the Claims 1-3 and 5-11.

According to the Advisory Action dated May 24, 2006, claims 1-3 and 5-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 3,045,979 (“Huggins”) in view of U.S. Patent 3,724,538 (“Yamaguchi”) and U.S. Patent 6,889,757 (“Iwasaki”). This rejection is traversed for at least the following reasons.

Claim 1 (as amended) recites “a plurality of corrugated fins arranged in each flow path for the second fluid extending between two adjacent flat tubes; wherein the plurality of corrugated fins in each flow path for the second fluid are arranged in series in the direction of the flow of the second fluid and laterally offset in relation to one another in their respective flow path.” No combination of Huggins, Yamagushi, and Iwasaki teaches or suggests these features.

In particular, Huggins teaches a series of adjacent flat tubes in which cooling fins are arranged in the flow paths of the second fluid. However, the cooling fins of Huggins that are between the adjacent tubes are not multiple corrugated fins in a series but a single corrugated fin as depicted in the figures below. Because only one corrugated fin is between adjacent tubes, there is no disclosure of the fins between adjacent flat tubes being laterally offset in the direction of the second fluid because a single fin cannot be laterally offset from itself. Furthermore, because only one corrugated fin is between adjacent tubes, there is no disclosure of the fins being laterally offset in a direction of the first fluid because again a single corrugated fin cannot be offset from itself.

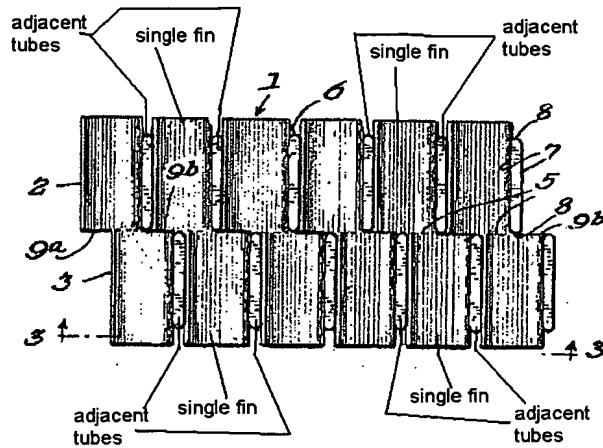


FIG. 2 of Huggins

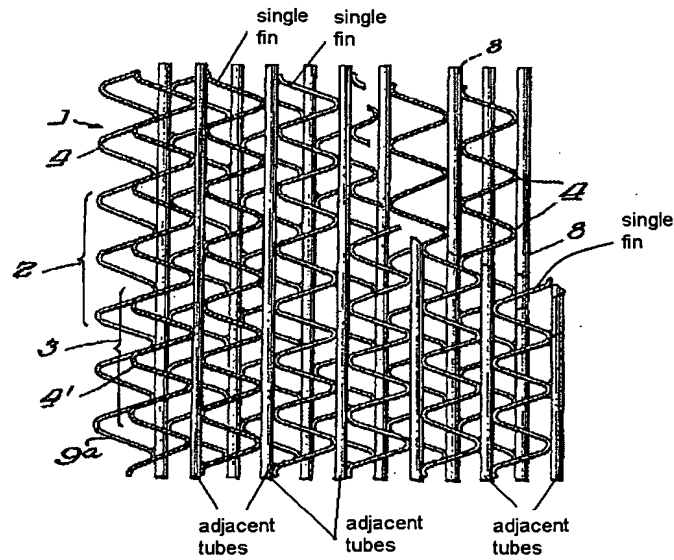


FIG. 3 of Huggins

As can be seen in the above figures, there is no plurality of fins between adjacent tubes but Huggins merely teaches a single fin between adjacent tubes. Because Huggins does not teach multiple corrugated fins arranged between adjacent flat tubes, Huggins does not disclose all the features of claim 1. Yamaguchi and Iwasaki do not cure this deficiency. Thus, any combination of Huggins, Yamaguchi, and Iwasaki does not render claim 1 unpatentable over the prior art.

It is noted that the PTO has not acknowledged any deficiency in Huggins, has not stated what teachings in Yamaguchi and Iwasaki allegedly cure that deficiency, and has not addressed any motivation to combine in the Final Office Action dated January 11, 2006, or in the Advisory Action dated May 24, 2006. Hence, the PTO has not made a prima facie case. Assuming that the PTO means to refer to the comments in the Office Action dated August 10, 2005, regarding the rejection of claims 4-7, those comments do not address the deficiencies of the Huggins, Yamaguchi, and Iwasaki, as indicated above.

Dependent claims 2-3 and 5-11 are also patentable for at least the same reason as claim 1 from which they depend since they contain all the limitations of claim 1 without regard to the further patentable features contained therein.

For at least these reasons, reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 11, 2006

By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5414
Facsimile: (202) 672-5399

Richard L. Schwaab
Registration No. 25,479

Matthew J. Kremer
Registration No. 58,671